FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
REVIEW PETITION (St.) NO.15690 OF 2004
IN
WRIT PETITION NO.28 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.C.M.Korde i/by Mr.A.G.Damle for petitioner.

Mr.S.P.Dharmadhikari i/by Mr.Vinod Tayde for res.Nos.7, 8, 9 & 10.

CORAM : H.L GOKHALE &
F.I.REBELLO, JJ.
DATED : 16th December 2004

P.C. :

1. Heard Mr.Korde, Senior Advocate with Mr.Damle for the petitioner and Mr.Dharmadhikari with Mr.Tayde for respondent Nos.7, 8, 9 and 10.

2. This petition seeks review of our order passed on 4th February 2004 in Writ Petition No.28 of 2004. It is principally contended that the concerned Clause 23 of the Terms of Tender was not an arbitration clause. A

similar petition being Public Interest Litigation No.1 of 2004 came before another Division Bench (Coram : C.K.Thakker, C.J. & S.A. Bobde, J.) and therein also the same clause / condition No.23 came for consideration and where also the petitioner-Municipal Corporation was a party. In that matter, the Division Bench has in terms referred to the concerned Clause 23 as an arbitration clause and upheld the extension of time granted by the authority concerned and dismissed the petition. An SLP was preferred to the Apex Court and that SLP has also been dismissed on 26th March 2004.

3. Mr.Dharmadhikari, learned Counsel appearing for respondent Nos.7, 8, 9 and 10, points out that if this plea is available, the petitioner-Municipal Corporation would have raised it at an earlier point of time. He

draws our attention to their written statement as also the orders passed by the Secretary, Urban Development Department, Mantralaya, Mumbai and that of the Chief Minister which also show that the understanding was clear and it was an arbitration clause.

4. In view of this position, we do not think that there is any occasion to review the order dated 4th February 2004 passed by us. Review petition is rejected.

5. Mr.Korde, learned Counsel appearing for the petitioner, submits that this question has arisen in another writ petition. It would be open to the petitioner to raise its submissions in that proceedings, if permissible in law.

6. Since we have rejected the Review petition, no separate order

is necessary on the Civil Application and the same is

disposed of as infructuous.

(H.L.GOKHALE, J.)

(F.I.REBELLO, J.)